

1927

c 16 Public Service Act

Ontario

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CHAPTER 16.

The Public Service Act.

GENERAL.

INTERPRETATION.

Interpreta-
tion.**1.** In this Act,—"Civil
servant."

(a) "Civil Servant" shall mean an officer, clerk or servant employed in a department;

"Commis-
sioner."

(b) "Commissioner" shall mean Civil Service Commissioner for Ontario;

"Depart-
ment."

(c) "Department" shall mean a department, branch office or service in the civil service at the seat of Government at Toronto;

"Minister."

(d) "Minister" shall mean the Member of the Executive Council for the time being presiding over a department or charged with administration of any Act or regulation respecting an office in the public service;

"Public
service."

(e) "Public Service" shall include every department and every office, clerkship or service at the nomination of the Crown, as representing the Province of Ontario, wherever held or performed. R.S.O. 1914, c. 14, s. 2; 1918, c. 5, s. 2, cl. (c).

PART I.

PUBLIC SERVICE.

Application
of Act to
officers,
etc., of
Assembly.**2.** Saving always the legal rights and privileges of the Assembly as respects the appointment or removal of its officers, clerks or servants, this Part shall apply to the permanent officers, clerks and servants of the Assembly, and for the purposes hereof such officers, clerks and servants shall constitute a department. R.S.O. 1914, c. 14, s. 3.Application
to offices
at Osgoode
Hall.**3.**—(1) For the purposes of this Part, the offices of the Courts, and the offices of the Master of Titles, Surrogate Clerk, and of the Inspector of Legal Offices and the Stamp Office at Osgoode Hall, shall be deemed to be a department, and shall

be presided over by the Attorney-General of Ontario, and the person having for the time being the conduct of the business of any such office shall have and perform with respect thereto the powers and duties under this Part of a deputy head of a department.

(2) Nothing herein shall impair or interfere with the authority or control of the courts and judges over their officers. Saving as to authority of courts. R.S.O. 1914, c. 14, s. 4.

DISQUALIFICATION.

4. A member of the Parliament of Canada shall not be appointed to or hold any permanent office or employment in the service of the Government of Ontario at the nomination of the Crown, to which a salary or other emolument in lieu of salary is attached, but this shall not apply to the offices of justice of the peace, coroner or notary public or to any like office. Members of Dominion Parliament not to hold permanent office at salary. R.S.O. 1914, c. 14, s. 5.

APPOINTMENTS, DIRECTION AND CONTROL.

5. Subject to the provisions of Part II the Lieutenant-Governor in Council upon the recommendation of the Minister may appoint such officers, clerks and servants in any department as may be deemed requisite or as may be provided for by statute or by any regulation made thereunder. Appointments by Lieutenant-Governor in Council. R.S.O. 1914, c. 14, s. 6.

6.—(1) The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) for the classification of the civil servants in any department and prescribing the duties to be performed by them; Classification.
- (b) for fixing the maximum and minimum salary or other remuneration to be paid to civil servants in any department; Salary.
- (c) for determining the qualifications, knowledge, skill or experience to be required before appointment to any office, clerkship or service in a department; Qualifications.
- (d) for fixing the hours of service in any department; Hours.
- (e) for regulating the conduct of civil servants and for imposing penalties by fine, suspension or otherwise for breach of such regulations, or for any misconduct or negligence on the part of civil servants. Conduct.

To be laid
before
Assembly.

(2) Every regulation made under this section shall be laid before the Assembly forthwith, if the Assembly is then in session, and if the Assembly is not then in session, within one week after the commencement of the next session. R.S.O. 1914, c. 14, s. 7.

Appoint-
ment
where no
salary
voted.

7. Upon the report of the Minister that it is necessary that an officer, clerk or servant shall be permanently employed in a department, but that no salary or other remuneration has been voted by the Assembly for that purpose, the Lieutenant-Governor in Council may make the appointment and may fix the salary or remuneration to be paid and the same shall be payable out of the Consolidated Revenue Fund until the end of the then next session of this Legislature. R.S.O. 1914, c. 14, s. 8.

TEMPORARY CLERKS.

Temporary
employ-
ment in
public
service.

8. Whenever it is deemed necessary that an officer, clerk or servant shall be employed temporarily in a department, the Minister may make such appointment for a period not exceeding three months; but any such officer, clerk or servant may under an Order-in-Council be employed for a longer period not exceeding six months, and may be paid out of the moneys voted for the contingencies of the department. At the end of six months, or any lesser period, such officer, clerk or servant may be re-appointed by Order-in-Council for a further period not exceeding six months, and so on from time to time. 1914, c. 21, s. 2.

DEPUTY HEADS OF DEPARTMENTS.

Who to be
deputy
heads.

9.—(1) The following officers shall be respectively the deputy heads of the departments to which they are attached:

The Deputy Attorney-General.
The Deputy Minister of Education.
The Deputy Minister of Lands and Forests.
The Deputy Minister of Mines.
The Deputy Minister of Northern Development.
The Deputy Minister of Forestry.
The Deputy Provincial Secretary.
The Assistant Provincial Secretary.
The Deputy Minister of Public Works.
The Deputy Minister of Agriculture.
The Provincial Auditor.
The Assistant Treasurer.
The Clerk of the Executive Council.
The Clerk of the Assembly.
The Superintendent of Insurance.
The Registrar of Loan Corporations.
The Chief Clerk of the office of the President of the Council. R.S.O. 1914, c. 14, s. 10 (1); 1925, c. 10, s. 2.

(2) Where the deputy head of a department is absent or there is a vacancy in the office, the powers and duties of the deputy head shall be exercised and performed by such officer or clerk in the department as may be designated by the Minister. R.S.O. 1914, c. 14, s. 10 (2). Temporary absence or vacancy.

(3) The Deputy Provincial Secretary shall, subject to and under the direction of the Minister, have the administration of *The Hospitals and Charitable Institutions Act*, *The Prisons and Public Charities Inspection Act*, and such other Acts, and shall perform and exercise such rights, powers and duties, as may be designated or assigned by the Lieutenant-Governor in Council. 1925, c. 10, s. 4, *part*. Deputy Provincial Secretary—duties and powers. Rev. Stat. cc. 359, 361.

(4) The Deputy Provincial Secretary when so authorized by the Lieutenant-Governor in Council may exercise any of the powers or duties conferred by statute or Order-in-Council, upon any other officer of the department or upon any officer of any other department or branch of the public service the administration of which is for the time being assigned by the Lieutenant-Governor in Council to the Provincial Secretary by his name of office or as a member of the Executive Council. 1925, c. 10, s. 3. Powers of Deputy Provincial Secretary.

(5) The Assistant Provincial Secretary shall, subject to and under the direction of the Minister, have the administration of *The Companies Act*, *The Extra-Provincial Corporations Act*, *The Mortmain and Charitable Uses Act*, *The Marriage Act*, and such other Acts, and shall perform and exercise such rights, powers and duties, as may be designated or assigned by the Lieutenant-Governor in Council. 1925, c. 10, s. 4, *part*. Assistant Provincial Secretary—duties and powers. Rev. Stat. cc. 218, 219, 132, 181.

(6) The deputy head of a department shall have the general control of his department and shall have such other powers and perform such duties as may be assigned to him by the Lieutenant-Governor in Council and shall oversee and direct the other officers, clerks and servants of the department and in the absence of the Minister and during such absence may suspend from employment any such officer, clerk or servant who refuses or neglects to obey his directions as such deputy. R.S.O. 1914, c. 14, s. 10 (3). Powers and duties.

10. No allowance or compensation shall be made for any extra service whatsoever which any civil servant or any officer, clerk or servant employed in the public service may be required to perform in the department to which he belongs, but nothing herein shall prevent the payment of remuneration for special services in addition to his ordinary duties rendered or performed by any civil servant or any officer, clerk or servant employed in the public service by the written direction or at the written request of the Minister. R.S.O. 1914, c. 14, s. 11. No compensation for extra services.

Statutory salaries not affected.

11. Nothing in this Part shall affect any salary or emolument granted or fixed by any statute. R.S.O. 1914, c. 14, s. 12.

Aid of clerks from other departments.

12. Whenever the staff of any department cannot adequately perform the duties required in an emergency, the deputy head of the department may require from the deputy head of any other department the temporary service of any clerk or servant who is not then actively engaged in his own department, but no additional remuneration shall be paid therefor. R.S.O. 1914, c. 14, s. 13.

Ministers to report as to clerks.

13. Every Minister shall furnish to the Lieutenant-Governor in Council at such times as he may direct, reports upon the conduct and efficiency of the civil servants employed in his department. R.S.O. 1914, c. 14, s. 14.

ATTACHMENT OF SALARIES OF CIVIL SERVANTS.

Creditor may garnish money owing by Crown to civil servant.

14.—(1) Where a debt or money demand, not being strictly a claim for damages, is due and owing to any person from a civil servant, either on a judgment or otherwise, and a debt is due and owing from the Crown, to such civil servant the person to whom the first mentioned debt or money demand is so due and owing (hereinafter designated the creditor) may recover in the manner herein provided any debt due or owing to the civil servant from the Crown, or sufficient thereof to satisfy the claim of the creditor, subject always to the rights of other parties to the debt owing from the Crown.

Notice to Treasurer.

(2) The creditor may serve a notice personally on the Treasurer or on the Assistant Treasurer, or on some other officer appointed by the Treasurer to receive the same, specifying the nature of the claim, and showing the name and residence of the civil servant and the nature of his occupation; and the service of such notice upon the Treasurer, Assistant Treasurer or other officer shall have the effect, subject to the rights of other persons, of attaching and binding in the hands of the Treasurer all debts then owing from the Crown to the civil servant, or sufficient thereof to satisfy the claim of the creditor, to the same extent as a garnishing or attaching order issued by or from a court of law.

Effect of notice.

Treasurer to retain money due.

(3) After service of the notice the Treasurer shall, when the creditor's claim is a judgment, retain all moneys then owing from the Crown to the civil servant, or sufficient thereof to satisfy the judgment, and a payment into court or to the creditor, or where an execution is in the hands of a sheriff or bailiff, to the sheriff or bailiff, of the amount due to the civil servant, or of the amount due and costs unsatisfied on the judgment, shall be a discharge to that extent of the debt owing from the Crown to the employee.

(4) Where judgment has not been recovered for the claim, ^{Dispute notice.} the creditor, besides serving the notice provided by subsection 2, shall also serve a copy of such notice on the civil servant, together with a memorandum requiring the civil servant if he disputes the claim to file a disputing note with the Treasurer within ten days from the date of service.

(5) If no disputing note is filed, the Treasurer, on being satisfied that notice has been served on the civil servant, shall retain any moneys due and owing to such civil servant and pay the same or a sufficient part thereof to satisfy the creditor's claim, subject to the provisions of subsection 8. ^{Where no dispute notice filed.}

(6) If a note disputing the claim is filed, the Treasurer may with the consent of all parties determine whether any and what sum is due by the civil servant to the creditor upon the claim, or he may require the creditor to bring an action therefor against the civil servant, and in such case he shall retain any moneys due and owing to the civil servant or sufficient thereof to pay any claim and costs which may be recovered in the action to abide the result of the action provided such action is promptly prosecuted to judgment. ^{Where dispute note filed.}

(7) There shall be kept in the Treasury Department an attachment book, in which shall be entered the names of parties, the dates of service of notices, the statement of claim, and the amount, if any, due and owing to the civil servant at the time of service. ^{Treasurer to keep attachment book.}

(8) This section shall not apply to any debt contracted before the 17th day of January, 1898, nor where the amount due to the civil servant does not exceed \$25, nor if such amount exceeds \$25 beyond the amount of such excess, nor to any debt not contracted for board or lodging which does not exceed \$25. ^{Limit of application of section.}

(9) Nothing in this section shall authorize the bringing or maintaining of a suit against the Crown or the Treasurer without the fiat of the Attorney-General first had and obtained in accordance with the present practice. R.S.O. 1914, c. 14, s. 15. ^{Attorney-General's fiat.}

OATHS OF OFFICE.

15.—(1) Every civil servant shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council the Oath of Allegiance and a Solemn Declaration in the following form: ^{Oaths of allegiance and office.}

"I (A. B.) solemnly and sincerely declare that I will faithfully and honestly fulfil the duties which devolve upon me as and that I will not ask or receive any money, service or recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I shall have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Lieutenant-Governor in Council."

Register of
oaths.

(2) The Clerk of the Executive Council shall keep a register of such oaths. R.S.O. 1914, c. 14, s. 16.

LEAVE OF ABSENCE.

Minister
may grant
leave of
absence up
to two
months.

16.—(1) A Minister may grant to any civil servant employed in his department, or to any officer, clerk or servant employed in the public service under his direction or control, leave of absence for recreation for any period not exceeding three weeks in any one year, or on account of sickness or other pressing necessity for any period not exceeding two months in any one year.

Grant of
leave by
Lieutenant-
Governor
in Council.

(2) The Lieutenant-Governor in Council may grant to any civil servant or to any officer, clerk or servant employed in the public service of Ontario, leave of absence for a period not exceeding one year, with or without salary, for such cause and upon such terms as may be deemed proper and as shall be set out in the Order in Council granting such leave.

Payment
of salary
during
leave of
absence.

(3) The salary of any person during leave of absence may be paid to him in advance at the time of granting such leave, or at such times as the Minister, or the Lieutenant-Governor in Council, may direct. R.S.O. 1914, c. 14, s. 17.

Renewal of
leave of
absence for
civil
servants.

(4) Leave of absence granted under this section may be renewed from time to time upon such terms as the Lieutenant-Governor in Council may by order direct, but no such renewal shall be for a longer period than one year from the termination of the period for which leave was granted, or of the last period for which it was renewed, as the case may be. 1915, c. 20, s. 1.

SALARIES AND INCREASES.

Salaries
and
increases.

17. Where the salary or other remuneration or an increase in the salary or other remuneration attached to any office, clerkship or service is voted by the Assembly in the Estimates or Supplementary Estimates for any financial year, whether the appropriation therefor is made by this Legislature before the commencement of, or during the financial year for which the appropriation is made, and notwithstanding that the officer, clerk or servant was appointed after the commencement of the financial year for which the salary or other remuneration or increase was voted, unless it is otherwise expressly stated in the Estimates or Supplementary Estimates, or directed by the Lieutenant-Governor in Council, any appointment to such office, clerkship or service shall take effect as from the commencement of the financial year in which the same is made, and such salary, or other remuneration, or such increase, shall take effect and shall be payable as from the commencement of the financial year for which the same is voted, and the portion of such salary or other remuneration

When to
take effect.

eration or of such increase which has accrued before the date of the passing of the Act making the appropriation shall be payable at that date. R.S.O. 1914, c. 14, s. 19.

SAVING AS TO OTHER ACTS.

18. This Part shall be subject to the provisions of any Act relating to any department or public office under the Government. R.S.O. 1914, c. 14, s. 20.

Act sub-
ject to
other
provisions.

PART II.

THE CIVIL SERVICE COMMISSIONER.

19.—(1) The Lieutenant-Governor in Council may appoint an officer to be known as the Civil Service Commissioner for Ontario.

Appointment
of Com-
missioner.

(2) The Lieutenant-Governor in Council may appoint such clerks and other assistants in the office of the Commissioner as may be deemed necessary and may authorize the employment by the Commissioner of expert and special assistance from time to time as may be deemed necessary in the discharge of the duties of the Commissioner.

Staff and
expert as-
sistance.

(3) The salary of the Commissioner and the salaries and other remuneration of the clerks and other persons employed by the Commissioner shall be fixed by the Lieutenant-Governor in Council and shall be payable out of the Consolidated Revenue Fund at such times and in such manner as the Lieutenant-Governor in Council may direct. 1918, c. 5, s. 3.

Salaries
and ex-
penses.

20. It shall be the duty of the Commissioner,—

Duties and
powers of
Commis-
sioner.

- (a) to investigate the conditions of the various departments and to make such recommendations as he may deem proper for the improvement of the organization and business methods therein;
- (b) to report to the Lieutenant-Governor in Council such changes as he may deem proper in any department with a view to systematizing the work of the department and the grading and classification of the civil servants employed therein;
- (c) to make such general recommendations as he may deem proper with regard to the scale of salaries or other remuneration for civil servants employed in any department;
- (d) to frame rules for the conduct and discipline of civil servants in their respective offices and for their promotion;

Investiga-
tion and
report.

Report on
changes
in depart-
ments.

Salaries

Discipline
and promo-
tion.

Superannuation.

- (e) to report to the Lieutenant-Governor when directed so to do upon any scheme providing for superannuation of civil servants or the payment of any allowance upon retirement from the public service;

Co-ordination and re-organization.

- (f) to recommend such action as will promote the co-ordination of work in the different departments, and the reduction or re-organization of the staff of any department with a view to greater economy and efficiency in administration;

Applications and nominations.

- (g) to examine and report upon every nomination for appointment to any position in a department;

Departmental inquiries.

- (h) to inquire and report upon any other matter affecting the administrative methods of any department or the conduct of the civil servants therein whenever instructed by the Lieutenant-Governor in Council so to do;

Generally.

- (i) to hold such inquiries and investigate such suggestions, complaints and recommendations with respect to the departments or to any of them or as to any changes in the statutes or regulations affecting the same, as the Lieutenant-Governor in Council may from time to time direct. 1918, c. 5, s. 4.

Certificate of commissioner as to necessity for appointment.

21. No person shall be appointed to any office, clerkship or service in a department until the Commissioner has certified in writing that such appointment is necessary and that the salary attached to the position does not exceed a fair and reasonable remuneration for the service required. 1918, c. 5, s. 5.

Commissioner to certify to qualification of appointee.

22. No person shall be appointed to any office, clerkship or service in a department until the Commissioner has certified in writing that the person to be appointed is duly qualified for the position to which he is to be appointed. 1918, c. 5, s. 6.

Certificate as to qualification in case of appointment to outside service.

23. An appointment shall not be made in the public service outside the departments to any office, clerkship or service, at a salary exceeding \$1,000 per annum, until the Commissioner has certified in writing, that the person to be appointed is properly qualified to fill the position. 1918, c. 5, s. 7.

Appointment to certain local offices.

24. Where an appointment is to be made to the office of registrar of deeds, local master of the Supreme Court, local registrar of the Supreme Court, deputy registrar of the Supreme Court, deputy clerk of the Crown, county court clerk, registrar of the surrogate court, sheriff, Crown attorney

or clerk of the peace, the name of the applicant or nominee shall be submitted to the Commissioner, and the appointment shall not be made until the Commissioner has certified in writing under his hand, that the applicant or nominee possesses the necessary qualifications as to character, education and ability for the discharge of the duties of the office. 1918, c. 5, s. 8.

25. Whenever required by the Lieutenant-Governor in Council so to do, the Commissioner shall prepare or examine and report upon any rule or regulation, or proposed rule or regulation to be made by any board, commission or officer, or by a member of the Executive Council, or by the Treasury Board, or by the Lieutenant-Governor in Council under Part I or under any Act relating to the public service or to any department, branch, office or service under the Crown in Ontario. 1918, c. 5, s. 9. Report on rules, regulations, etc.

26. Where the Commissioner, after investigating the condition of any department, reports thereon and recommends the retirement of any officer, clerk or servant or the reorganization of the department, the Lieutenant-Governor in Council may, by order, give effect to such recommendation. 1918, c. 5, s. 10, *part*. Crown may act on recommendation of Commissioner.

27. It shall be the duty of the Commissioner to prepare annually and present to the Lieutenant-Governor in Council on or before the 1st day of November, a report upon the performance of the duties of his office during the preceding fiscal year, and the report shall be laid before the Assembly at the next ensuing session of the Legislature. 1918, c. 5, s. 11. Annual report.

28. This Part shall apply to all departments, branches and offices mentioned in section 3 of this Act and the experts, officers, clerks, stenographers and messengers attached to The Ontario Railway and Municipal Board. 1918, c. 5, s. 12 (3). Application of Act.

PART III.

SUPERANNUATION OF EMPLOYEES.

29. In this Part,—

- (a) "Board" shall mean board appointed under the authority of this Act to administer the same. 1920, c. 4, s. 2, cl. (a); Interpretation. "Board."
- (b) "Employee" shall mean and include every person employed in the service of the Crown as representing the Province of Ontario who receives a stated annual salary with or without perquisites or emoluments in addition thereto, and the Provincial Auditor, the officers, clerks, and servants in "Employee."

the Audit Office and the officers and employees of the Assembly, but shall not include any person employed in a part time capacity or appointed for a temporary purpose or for a stated period or employed temporarily in any work or service for the Government of Ontario. 1920, c. 4, s. 2, cl. (b); 1922, c. 5, s. 2;

"Fund."

(c) "Fund" shall mean Public Service Superannuation Fund;

"Government."

(d) "Government" shall mean the Lieutenant-Governor of Ontario acting upon the advice of the Executive Council;

"Regulations."

(e) "Regulations" shall mean regulations made under the authority of this Act. 1920, c. 4, s. 2, cls. (c-e).

Establishment of retirement fund and account.

30. There shall be established a fund to be known as the Public Service Superannuation Fund and an account shall be opened in the books of the Treasurer of Ontario to be known as the Public Service Superannuation Fund Account. 1920, c. 4, s. 3.

Fund—how constituted.

31. The Fund shall be formed of contributions from the salaries of the employees and payments and credits to be made thereto on behalf of the Government as hereinafter provided. 1920, c. 4, s. 4.

Who shall be entitled to superannuation allowance.

32. Subject to the provisions of this Part and to the regulations there shall be granted a yearly superannuation allowance to,—

(a) Every employee who having attained the age of seventy years, and having served at least ten years continuously in the public service retires therefrom; 1920, c. 4, s. 5, cl. (a);

(b) Every employee who, having served at least ten years continuously in the public service, is retired therefrom on account of ill-health or physical incapacity or who having so served at least twenty-five years is retired from the public service for any cause other than misconduct or improper behaviour on his part, and who is declared by the Lieutenant-Governor in Council upon the report of the Civil Service Commissioner to be entitled to superannuation; 1920, c. 4, s. 5, cl. (b); 1922, c. 5, s. 3; 1924, c. 7, s. 2 (1).

(i) The Board shall have power to review from time to time the case of an employee who is superannuated on account of ill-health or

physical incapacity and, where such employee recovers, the Board shall report his case to the Government who may offer him further employment.

- (ii) Where an employee, who has been superannuated on account of ill-health or physical incapacity, upon recovery is offered re-employment by the Government, but does not accept such re-employment, the Board may, on the approval of the Lieutenant-Governor in Council, discontinue the superannuation allowance granted to such employee.
- (iii) Where an employee who has been superannuated on account of ill-health or physical incapacity is re-employed by the Government, his superannuation allowance shall be suspended during the time of his re-employment, and the period of such further employment shall be counted in determining the superannuation allowance to which he is entitled at his final retirement. 1922, c. 5, s. 3.

33. Every male employee, if married at the date of his entering the service, or if married subsequently and before he has been for ten years in the service, shall furnish to the Board from time to time as required, a certificate that his life is insured in favour of his dependent or dependents being within the class of preferred beneficiaries within the meaning of *The Insurance Act* in some reliable insurance company for an amount of not less than \$2,000 and for a period of at least ten years from the date of his entering the service, and in default of his furnishing such certificate, the Board may insure the life of such employee and the cost of such insurance shall be deducted from his salary. 1920, c. 4, s. 6; 1922, c. 5, s. 4.

Married employees required to carry life insurance.

Rev. Stat. c. 222.

34. Where an employee who would have been entitled upon his retirement to the superannuation allowance, dies after having served for at least ten years continuously in the public service there shall be granted to his personal representatives or to a member of his family, a lump sum not exceeding the amount of the annual allowance to which the employee would have been entitled had he been superannuated at the date of his death, or a lump sum not exceeding the contributions made by him under this Part during his lifetime with interest at five per centum per annum compounded yearly whichever may be greater.

Death of employee; when allowance payable to widow and children.

- (a) Or, in case such employee dies leaving a widow or infant children under the age of eighteen years,

one half of the superannuation allowance to which such employee would have been entitled had he been superannuated at the date of his death shall be paid to the widow for her life or during her widowhood, but if the wife of such employee dies before him, or where having survived him, she dies or marries again leaving infant children by him, such half superannuation allowance shall be paid to those children of such employee if any, who shall not have attained the age of eighteen years, and until they do attain such age. 1920, c. 4, s. 7; 1924, c. 7, s. 3.

Death before having served ten years.

35. Where an employee dies while in the public service before having served for ten years, there shall be granted to his personal representatives, or to a member of his family, a lump sum not exceeding the total of the contributions made by such employee under this Part with interest at five per centum per annum. 1920, c. 4, s. 8; 1922, c. 5, s. 5.

Retirement before being entitled to annual allowance.

36. Where an employee retires voluntarily from the service, or his office is abolished before the time when a superannuation allowance could be granted to him, the sums which have been deducted from his salary under this Part shall be forthwith returned to him with interest at the rate of five per centum per annum. 1920, c. 4, s. 9; 1922, c. 5, s. 6.

Valuing perquisites, etc., for purposes of Act.

37. Where in addition to a cash salary an employee enjoys emoluments, perquisites or privileges incidental to his office, the board shall fix the value of such emoluments, perquisites or privileges and the same shall be added to, and for the purposes of this Part shall be deemed to form part of his salary, and the deductions required by this Part shall be made upon that basis from the cash salary received by him. 1920, c. 4, s. 10.

Deductions from salaries for Fund.

38.—(1) Commencing with the month of November, 1920, and thereafter, there shall be deducted from the salary of every employee monthly an amount equal to the percentage of his salary according to the scale set out in subsection 2 of this section, and the amount so deducted shall be placed to the credit of the Fund in the Public Service Superannuation Fund Account. 1920, c. 4, s. 11 (1).

Rate of percentage of deductions.

(2) The percentage to be deducted from the salary of an employee shall be as follows:

- (a) If the employee was in the public service on the 15th day of June, 1920, and was then less than twenty-one years of age—or enters the service after that date when he is less than twenty-one years of age—two and one-half per centum;

- (b) If the employee was in the public service at the said date and was then not less than twenty-one years of age but less than twenty-six years of age—or enters the service after the said date when he is not less than twenty-one years of age but less than twenty-six years of age—two and three-quarters per centum;
- (c) If the employee was in the public service at the said date and was then not less than twenty-six years of age but less than twenty-nine years of age—or enters the service after the said date when he is not less than twenty-six years of age but less than twenty-nine years of age—three per centum;
- (d) If the employee was in the public service at the said date and was then not less than twenty-nine years of age but less than thirty-two years of age—or enters the service after the said date when he is not less than twenty-nine years of age but less than thirty-two years of age—three and one-quarter per centum;
- (e) If the employee was in the public service at the said date and was then not less than thirty-two years of age but less than thirty-five years of age—or enters the service after the said date when he is not less than thirty-two years of age but less than thirty-five years of age—three and one-half per centum;
- (f) If the employee was in the public service at the said date and was then not less than thirty-five years of age but less than thirty-seven years of age—or enters the service after the said date when he is not less than thirty-five years of age but less than thirty-seven years of age—three and three-quarters per centum;
- (g) If the employee was in the public service at the said date and was then not less than thirty-seven years of age, but less than thirty-nine years of age—or enters the service after the said date when he is not less than thirty-seven years of age but less than thirty-nine years of age—four per centum;
- (h) If the employee was in the public service at the said date and was then not less than thirty-nine years of age but less than forty-one years of age—or enters the service after the said date when he is not less than thirty-nine years of age but less than forty-one years of age—four and one-quarter per centum;

- (i) If the employee was in the public service at the said date and was then not less than forty-one years of age but less than forty-three years of age—or enters the service after the said date when he is not less than forty-one years of age but less than forty-three years of age—four and one-half per centum.
- (j) If the employee was in the public service at the said date and was then not less than forty-three years of age but less than forty-five years of age—or enters the service after the said date when he is not less than forty-three years of age but less than forty-five years of age—four and three-quarters per centum;
- (k) If the employee was in the public service at the said date and was then forty-five years of age or more—or enters the service after the said date when he is forty-five years of age or more—five per centum. 1920, c. 4, s. 11 (2); 1922, c. 5, s. 7, *part*.

Employees
appointed to
permanent
positions
after holding
temporary
positions.

(3) A person who before the 1st day of November, 1920, was temporarily employed in the public service, and thereafter appointed to a permanent position in the public service and whose service in such temporary employment has been continuous up to the date of such permanent appointment, shall have deductions made from his salary in accordance with the provisions of subsection 2 as from the 1st day of November, 1920.

(4) A person who was temporarily employed in the public service on or after the 1st day of November, 1920, and is thereafter appointed to a permanent position in the service and whose temporary employment was continuous up to the date of such permanent employment may within one month after his permanent appointment give notice in writing to the Board to deduct from his salary an amount sufficient to cover the amount which would have been payable by him had he been appointed permanently at the date of his temporary appointment, and in the event of his so doing he shall be entitled to credit for the period of his temporary employment in reckoning the amount of any annual allowance subsequently payable to him under this Part, but in the event of his failing to give such notice, the period of such temporary employment shall not be included in determining the length of the period of his employment. 1922, c. 5, s. 8, *part*.

Government
equivalent
contribu-
tion.

39. Whenever any amount is credited to the Fund by way of deductions from the salaries of the employees an equivalent amount shall be credited to the Fund as the contribution of the Government thereto but any refunds made under section 36 shall be credited to the Government as part of and shall be deducted from the contribution of the Government under this section. 1920, c. 4, s. 12; 1922, c. 5, s. 9.

40. There shall be credited to the Fund by the Government interest at the rate of five per centum per annum compounded annually and such interest shall be made up as of the close of each fiscal year upon any balance at the credit of the Fund as the contribution of employees or of the Government at the commencement of the fiscal year and all sums contributed by the employees and by the Government during the year. 1920, c. 4, s. 13.

Interest
Fund.

41. Until the contributions by the employees and the Government are sufficient to equal the benefits provided for and payable to employees under this Part and thereafter whenever the amount at the credit of the Fund is insufficient to meet the payments required on account of benefits to employees provided by this Part, the deficiency shall be made up out of the Consolidated Revenue Fund. 1920, c. 4, s. 14.

Deficiencies
in Fund,
how made
up.

42. The costs of the administration of this Part shall be borne by the Province of Ontario and shall be payable out of such moneys as may be appropriated from time to time by the Legislature for that purpose. 1920, c. 4, s. 15.

Cost of
administra-
tion.

43.—(1) The superannuation allowance payable to any employee shall be calculated upon the average yearly salary of the employee during the last three years of his service and shall not exceed one-fiftieth part of such annual salary multiplied by the total number of full years of service and any fraction of a year of continuous service, and including service previous to appointment by Order-in-Council where such service has been continuous and the employee has contributed as provided by subsections 3 and 4 of section 38, but no more than thirty years of service shall be reckoned nor shall the yearly superannuation allowance exceed in any case the sum of \$2,000, nor in the case of an employee superannuated under section 44 shall such superannuation allowance be less than \$360, but in no case shall the annual allowance exceed the final annual salary of the employee.

How super-
annuation
to be
calculated.

(2) Subsection 1 shall take effect as from the 15th day of June, 1920. 1922, c. 5, s. 10.

When to
take effect.

44.—(1) Except as provided in subsection 3 of this section and subject to the provisions of sections 54 and 55, and notwithstanding anything contained in any Act relating to any department, branch, or office in the public service or in any other Act of this Legislature, every employee, no matter by what tenure he holds office, shall cease to hold office upon attaining the age of seventy years and the adoption by the Lieutenant-Governor in Council of the report of the Board fixing his superannuation or retiring allowance. 1920, c. 4, s. 17 (1); 1926, c. 21, s. 26 (1).

Compulsory
retirement
at seventy
years of age.

Optional
retirement
at sixty-five.

(2) An employee who has served for thirty years or more in the service of the Government and has attained the age of sixty-five years may be retired at his option or at the option of the Government and shall be entitled to the superannuation allowance hereinbefore provided. 1920, c. 4, s. 17 (2).

Power to
make ex-
ceptions
as to
compulsory
retirement.

(3) Where the Lieutenant-Governor in Council decides that it is in the public interest to retain the services of an employee who has attained the age of seventy years before or after the 15th day of June, 1920, the Lieutenant-Governor in Council may, with the consent of such employee, direct that he be continued in the service for a further period upon such terms as to remuneration during service, and as to superannuation or retiring allowance upon retirement as the Lieutenant-Governor in Council may deem expedient. 1920, c. 4, s. 17 (3).

Death of
super-
annuated
employee
before re-
ceiving one
year's
allowance.

45. Where an employee who is granted a superannuation allowance under this Part dies before having received an amount equal to one year's allowance, there shall be paid to the personal representatives of such person, or to a member of his family, as the Board may direct, a sum equal to the remainder of such annual allowance, or a lump sum not exceeding the difference between the total contributions made by him under this Part during his lifetime with interest at five per centum per annum compounded yearly, and the amount paid to him in his lifetime on account of such annual allowance, whichever may be the greater, or where such employee dies leaving a widow, or child under the age of eighteen years, one-half of the superannuation allowance to which the deceased was entitled shall be continued to the widow of such employee for her life or during her widowhood, but if such employee is a widower or if his wife having survived him, remarries, such one-half superannuation allowance shall be paid to the children of such employee, if any, who have not attained the age of eighteen years and until they have attained that age.

(a) Nothing in this section shall apply to a widow under fifty years of age, of an employee to whom she was married after he reached the age of sixty years. 1924, c. 7, s. 5.

Employees
over age
retiring
before
reaching
ten years'
service.

46. An employee who was in the service of the Government on the 15th day of June, 1920, and who retires on account of having reached the age of retirement before he has been ten years in the service shall be paid out of the Consolidated Revenue Fund an amount equal to one-tenth of his annual salary multiplied by the number of years he has been in the service but such amount shall in no case exceed \$2,000. 1920, c. 4, s. 19; 1922, c. 5, s. 11.

47. An employee who was in the service of the Government on the 15th day of June, 1920, and who is retired on account of having reached the age of retirement after having been at least ten years in the service, shall receive annually as a superannuation allowance at least one-half of the salary which he was receiving immediately preceding his superannuation, but such allowance shall in no case exceed annually the sum of \$2,000. 1920, c. 4, s. 20.

Employees over age on 15th June, 1920, after ten years' service.

48. The superannuation allowance payable to any employee under this Part or to his widow or infant children shall be paid in monthly instalments in the manner hereinafter provided. 1920, c. 4, s. 21.

Manner of payment.

49. The interest of any employee in the Fund under this Part or in any retiring allowance or pension payable out of the Fund shall be exempt from provincial and municipal taxes and shall not be subject to garnishment or attachment or seizure or any legal process and shall be unassignable. 1920, c. 4, s. 22.

Interest of employee not liable to taxation, attachment, etc.

50. Where a person to whom an allowance is payable under this Act is, in the opinion of the Board, incapable of managing his affairs, the Board shall have power to pay such allowance to his committee or, if there be no committee, to a member of his family. 1927, c. 6, s. 2, *part*.

Payment of allowance when employee is incapable.

51. This Part shall be administered by a board to be known as the Public Service Superannuation Board, which shall consist of the President of the Executive Council, who shall be the chairman thereof, the Civil Service Commissioner, one representative to be appointed by each of the recognized political parties in the Legislature, and a representative of the Ontario Civil Service Association. 1920, c. 4, s. 23.

Board, how composed.

NOTE.—Section 51 was repealed and a new section substituted by 1924, c. 9, s. 6, but the repeal and the new section come into force only when proclaimed by proclamation of the Lieutenant-Governor.)

52. No employee shall be entitled to receive any payment on account of superannuation allowance until the Board has reported that he is entitled thereto under the provisions of this Part. 1920, c. 4, s. 24.

Board to report on superannuation.

53. The Board, subject to the approval of the Lieutenant-Governor in Council, may make regulations,—

Regulations by Board.

- (a) providing for the proofs to be furnished before granting any allowance under this Part;
- (b) generally for the better carrying out of the provisions of this Part. 1920, c. 4, s. 25.

Super-
annuation
compulsory.

54. Superannuation shall be compulsory for every employee eligible therefor and to whom it is offered by the Government, and such offer shall in no manner be considered as a censure upon an employee. 1920, c. 4, s. 26.

Regulations
by Govern-
ment.

55. Where a question arises as to the application of this Part to any officer, clerk or servant in the employment of the Government or as to any class of employees, the same shall be determined by the Lieutenant-Governor in Council. 1920, c. 4, s. 27.

Payments
and credits
out of
Consolidated
Revenue
Fund.

56.—(1) The payments and credits required to be made by the Government by way of contributions to the fund and for interest and the benefits payable under this Part to employees or their representatives, and the costs and expenses incurred in the administration of this Part shall be a charge upon and shall be payable out of the Consolidated Revenue Fund.

How pay-
ments to be
made.

(2) The payment of any benefit to an employee or his representatives under this Part, and the payment of the expenses incurred in the administration of the fund shall be made upon a requisition in writing signed by the chairman of the Board and directing the issue of the cheque of the Treasurer of Ontario for the amount named in the requisition, and such direction shall be final and conclusive, and the cheque of the Treasurer of Ontario shall be issued for the amount stated in the requisition and the Auditor shall countersign the same, anything in *The Audit Act* to the contrary notwithstanding. 1920, c. 4, s. 28.

Rev. Stat.
c. 25.

Annual
statement
to Assembly.

57. There shall be laid before the Legislative Assembly within one week after the commencement of each Session a return showing,—

- (a) the names of all employees who have retired from the public service, or who have died during the last preceding fiscal year;
- (b) the offices held by them or the nature of their employment respectively;
- (c) the amount of salary payable to each at the time of retirement or death;
- (d) the age of each at retirement;
- (e) the cause of retirement in the case of any one retiring before attaining the age of seventy years;
- (f) the amount of superannuation or other allowance granted in each case;
- (g) all regulations made under this Part. 1920, c. 4, s. 29, *amended*.

58. An employee who is entitled to benefits from any other superannuation Act or fund to which the Government contributes shall not be eligible for benefits under this Part.

Employees on other funds not to benefit.

But:

- (a) an employee who was on the 15th day of June, 1920, in receipt of benefits from any fund for superannuated teachers shall be entitled upon his retirement to receive from the Fund the superannuation allowance provided by this Part less the amount of any pension payable to him as a superannuated teacher, and
- (b) an employee who was on the 15th day of June, 1920, a contributor to any such fund for superannuated teachers and who elected in writing before the 1st day of July, 1920, to become a contributor to and to share in the Fund established under this Part shall cease to be a contributor to or to be entitled to the benefit of any such fund for superannuated teachers, and shall become subject to the provisions of this Part. 1920, c. 4, s. 31; 1924, c. 7, s. 7, *amended*.
- (c) an employee who is a contributor to the Ontario Teachers' and Inspectors' Superannuation Fund may upon his retirement as a teacher or inspector and his appointment to another permanent position in the public service, become a contributor to the Fund and be entitled to the benefits under this Part, credit for service dating, at the option of the employee, from either the time of his first entering the service or from the time of his appointment subsequent to his retirement as teacher or inspector, provided such service has been continuous. 1924, c. 7, s. 7.

59.—(1) Every employee who is at the time of the passing of this Act a contributor to the Teachers' and Inspectors' Superannuation Fund shall make his election in writing addressed to the secretary of the Public Service Superannuation Board before the 1st day of July, 1927, as to whether he will remain a contributor to such fund or will become a contributor to and entitled to share in the benefits of the fund established under this Act, and if he elects to become a contributor to the fund established under this Act he shall cease on the 1st day of July, 1927, to be a contributor to, or be entitled to the benefits of the Teachers' and Inspectors' Superannuation Fund and shall become subject to the provisions of this Act.

Election of present employee as between Fund and Teachers' and Inspectors' Fund.

(2) Every person who becomes an employee by reason of his appointment as an inspector of schools or as a teacher on or after the 1st day of July, 1927, and who is at the time

Election by employees appointed after 1st of July, 1927.

of such appointment, or who is entitled by reason of such appointment to be a contributor to the Teachers' and Inspectors' Superannuation Fund, shall within thirty days after such appointment make his election in writing addressed to the Secretary of the Public Service Superannuation Board as to whether he will contribute to the fund established under this Act or to the Teachers' and Inspectors' Superannuation Fund, and if he is at the time of such election a contributor to the Teachers' and Inspectors' Superannuation Fund and elects to be a contributor to the fund established under this Act he shall cease to be a contributor to or be entitled to the benefits of the Teachers' and Inspectors' Superannuation Fund.

Making up
contribu-
tions for
past years.

(3) An employee who is a contributor to the Teachers' and Inspectors' Superannuation Fund and who elects under the provisions of subsection 1 or subsection 2 to become a contributor to the fund established under this Act, shall not by reason of such election be disentitled to the return of any contribution made by him to the Teachers' and Inspectors' Superannuation Fund, and if he has been employed for a term sufficient to entitle him to retire from the teaching profession and withdraw his contributions from that fund his contributions may be returned to him in the same manner as if he were retiring from the profession, and he shall contribute to the fund established under this Act as from the date of his appointment or from the 1st day of November, 1920, which ever is the later date, the like percentage of his salary as he would have been required to contribute had he been in the public service on the 15th day of June, 1920, or had he entered the service after that date.

Directions
as to
distribution
of
payments.

(4) The Public Service Superannuation Board may give directions respecting the contributions required to be made by any employee electing to become a contributor to the fund established under this Act and providing for the distribution of any sums due in respect to the years prior to such election over such term as the board may deem proper. 1927, c. 6, s. 2, *part*.

Sheriff to be
deemed
employee.

60.—(1) This part shall extend and apply to any person holding the office of sheriff of a county, city or district in Ontario whether such sheriff is paid by fees or salary, or partly by fees and partly by salary, and a sheriff shall be deemed to be an "employee" within the meaning of this Part, but any amount payable on account of superannuation allowances under this section granted to sheriffs who had attained the age of seventy years on the 1st day of July, 1922, or who shall attain the age of seventy years before the 1st day of November, 1930, shall be added to the contribution of the Government to the Fund and shall be chargeable to the Consolidated Revenue Fund. 1922, c. 5, s. 13 (1); 1924, c. 5, s. 4 (1), *amended*.

(2) The contribution to be made to the Fund by a sheriff shall be the same percentage of his net income from fees and other emoluments and any salary or allowance paid to him by the Province for the fiscal year next preceding that in which the contribution is made, as the percentage to be deducted from the salary of an employee under subsection 2 of section 38. 1922, c. 5, s. 13 (2), *amended*.

Contribution
to be made by
sheriff.

(a) In this subsection "net income" shall have the same meaning as in *The Public Officers Fees Act*.

Rev. Stat.
c. 19.

(3) The Lieutenant-Governor in Council upon the recommendation of the Board may make regulations respecting the time and manner in which contributions to the said fund shall be made by sheriffs, and generally for the better carrying out of the provisions of this section. 1922, c. 5, s. 13 (3), *amended*.

Regulations.

61. The Lieutenant-Governor in Council, upon recommendation of the Board, may extend the operation of this Part to any other class of public officers employed in connection with the administration of justice whether such officers are paid by fees or salary or partly by fees and partly by salary, and upon the passing of any Order-in-Council under this section the provisions of the next preceding section shall *mutatis mutandis* apply to any class of officers named in the Order-in-Council. 1922, c. 5, s. 14, *amended*.

Extending
operation
to other
classes.

62. The Lieutenant-Governor in Council, upon the recommendation of the Board, may extend the operation of this Part to cover the permanent staff employed by any board or commission under the Government. 1922, c. 5, s. 15, *amended*.

Permanent
staff of
board or
commission.